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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,886	07/09/2003	Tyler D. Duston	J-3798	9844

28165 7590 02/26/2004

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EXAMINER

LOFDAHL, JORDAN M

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,886

Applicant(s)

DUSTON ET AL.

Examiner

Jordan Lofdahl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/9/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 19, 20, 23, 24 and 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Novack (6594948)

As to claim 19, Novack discloses a device comprising an open top base having a floor, an outer wall that extends upwardly from the floor to an outer rim, and an inner wall that extends upwardly from the floor to an inner rim, said inner wall being spaced inwardly from said outer wall to define a central bait well; a tapered wall extending downwardly and outwardly from said inner wall that cooperated with said outer wall to define a moat that surrounds said bait well and at least one door way formed in said outer wall (fig. 9) the doorway having an upper lintel disposed at a height from said floor such that said inner rim is located above said upper lintel and a cap (8).

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As to claim 20, disclosed is said tapered wall having an upper end contiguous with said inner rim (fig. 4).

As to claim 23, disclosed is the doorway opening directly into said moat (fig. 8).

As to claim 24, disclosed is the outer rim above the inner rim.

As to claim 27, disclosed is said cap including a ceiling having an outer periphery, a rim extending downward from the outer periphery and an interlocking means (fig. 8).

As to claim 28, disclosed is the cap rim located adjacent to and interiorly of the outer wall and wherein said interlocking means comprises an outwardly extending cap retention ledge on said cap rim and an inwardly (inward with respect to part of the base wall (22)) extending base wall retention ledge on said outer wall.

As to claim 29, disclosed is a cap support that extends inwardly from the outer wall (fig. 9, shows the cap being supported).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novack (6594948).

As to claim 21, not disclosed is a tapered wall contiguous with said outer wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the tapered wall contiguous with said outer wall, since it has been held that rearranging parts of an invention only involves routine skill in the art.

As to claim 22, disclosed is a device, as modified, wherein a doorway (14) includes a lower sill and the sill being contiguous with the lower end of said tapered wall.

Claims 1-11 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Novack (6594948) and further in view of Baker (6651378).

As to claim 1, Novack discloses a device comprising an open top base having a floor, an outer wall that extends upwardly from the floor to an outer rim, and an inner wall that extends upwardly from the floor to an inner rim, said inner wall being spaced inwardly from said outer wall to define a central bait well; a tapered wall extending downwardly and outwardly from said inner wall that cooperated with said outer wall to define a moat

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that surrounds said bait well and at least one door way formed in said outer wall (fig. 9) and a cap (8). Not disclosed is a spike. Baker however discloses a spike (60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Novack with the spike of Baker to create a means to securely place the device on the ground.

As to claim 2, disclosed is said tapered wall having an upper end contiguous with said inner rim (fig. 4).

As to claim 3, not disclosed is a tapered wall contiguous with said outer wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the tapered wall contiguous with said outer wall, since it has been held that rearranging parts of an invention only involves routine skill in the art.

As to claim 4, disclosed is a device, as modified, wherein a doorway (14) includes a lower sill and the sill being contiguous with the lower end of said tapered wall.

As to claim 5, disclosed is the doorway opening directly into said moat (fig. 8).

As to claim 6, disclosed is the doorway including an upper lintel and said inner rim located above said upper lintel (fig. 8).

As to claim 7, disclosed is the outer rim above the inner rim.

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As to claim 8, disclosed is a device, as modified, wherein said spike includes a first and second vanes, the first vane extending downwardly further than second vane ('378, fig. 12).

As to claims 9, disclosed is said cap including a ceiling having an outer periphery, a rim extending downward from the outer periphery and an interlocking means (fig. 8).

As to claim 10, disclosed is the cap rim located adjacent to and interiorly of the outer wall and wherein said interlocking means comprises an outwardly extending cap retention ledge on said cap rim and an inwardly (inward with respect to part of the base wall (22)) extending base wall retention ledge on said outer wall.

As to claim 11, disclosed is a cap support that extends inwardly from the outer wall (fig. 9, shows the cap being supported).

As to claim 26, not disclosed is a spike. Baker however discloses a spike (60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Novack with the spike of Baker to create a means to securely place the device on the ground.

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Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novack (6594948) in view of Baker (6651378) and further in view of Lund et al. (6474015).

As to claim 12, not disclosed is a device, as modified, comprising a cap strut. Lund et al., however, discloses a cap strut (fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Novack with a cap strut to strengthen the cap.

As to claim 13, Novack discloses a bait well having a floor and an inner well that extends upwardly from the well floor to an inner well rim, a moat and a tapered surface, an outer base wall, a doorway, a cap, a cap ceiling a cap rim. Not disclosed is a spike. Baker however discloses a spike (60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Novack with the spike of Baker to create a means to securely place the device on the ground. Not disclosed is a device, as modified, comprising a cap strut. Lund et al., however, discloses a cap strut (fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Novack with a cap strut to strengthen the cap.

As to claim 14, disclosed is a spike including a vane including a brace (62).

As to claim 15, disclosed are a first and second vanes.

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As to claim 16, disclosed is the cap rim located adjacent to and interiorly of the outer wall and wherein said interlocking means comprises an outwardly extending cap retention ledge on said cap rim and an inwardly (inward with respect to part of the base wall (22)) extending base wall retention ledge on said outer wall.

As to claim 17, disclosed is a cap support that extends inwardly from the outer wall (Novack, fig. 9, shows the cap being supported).

As to claim 18, disclosed is the outer base wall and doorway extending upwardly from the lowest portion of the moat.

Claims 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novack (6594948) in view of Lund et al. (6474015).

As to claim 30, not disclosed is a device, as modified, comprising a cap strut. Lund et al., however, discloses a cap strut (fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Novack with a cap strut to strengthen the cap.

As to claim 31, Novack discloses a bait well having a floor and an inner well that extends upwardly from the well floor to an inner well rim, a moat and a tapered surface, an outer base wall, a doorway, a cap, a cap ceiling a cap rim. Not disclosed is the device

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comprising a cap strut. Lund et al., however, discloses a cap strut (fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Novack with a cap strut to strengthen the cap.

As to claim 32, disclosed is the cap rim located adjacent to and interiorly of the outer wall and wherein said interlocking means comprises an outwardly extending cap retention ledge on said cap rim and an inwardly (inward with respect to part of the base wall (22)) extending base wall retention ledge on said outer wall.

As to claim 33, disclosed is a cap support that extends inwardly from the outer wall (fig. 9, shows the cap being supported).

As to claim 34, disclosed is the outer base wall and doorway extending upwardly from the lowest portion of the moat.

As to claim 35, disclosed is the doorway including an upper lintel and said inner rim located above said upper lintel (fig. 8).

Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novack (6594948) in view of Lund et al. (6474015) and further in view of Baker (6651378).

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As to claim 36, not disclosed is a spike. Baker however discloses a spike (60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Novack with the spike of Baker to create a means to securely place the device on the ground.

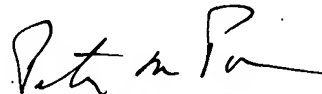
As to claim 37, disclosed is a spike including a vane including a brace (62).

As to claim 38, disclosed is a device, as modified, wherein said spike includes a first and second vanes, the first vane extending downwardly further than second vane ('378, fig. 12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on M-F 7-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703.306.4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

2/20/04

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jordan Lofdahl
Examiner
Art Unit 3644

jml